S/N 09/838,695 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Michael Dove	Examiner: Steven Paul Sax
Serial No.:	09/838,695	Group Art Unit: 2174
Filed:	April 19, 2001	Docket No.: BU1327/0033-064001
Title:	APPARATUS AND METHOD FOR PERSISTENT DISPLAY INTERFACE	

RESPONSE UNDER 37 CFR § 1.116

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Applicant has reviewed the Final Office Action mailed on April 17, 2007. A request for a one-month extension of time is being filed herewith, thereby extending the period for response from July 17, 2007 until August 17, 2007. Accordingly, this response is timely. Applicant respectfully requests reconsideration of the application in view of the following.

REMARKS

Applicant has carefully reviewed and considered the Final Office Action mailed on April 17, 2007, and the references cited therewith. Applicant has not amended, canceled or added any claims. Accordingly, claims 1-43 remain pending in this application, of which claims 1, 10, 20, 31, 37, 38, 41 and 42 are independent.

In the Office Action, claims 1-44 are indicated as being rejected. However, claim 44 was canceled in Applicant's previous response.

Applicant notes that telephonic interviews were held between Applicant's undersigned representative and the Examiner on October 10, 2006 and October 12, 2006. As was noted in Applicant's previous response, agreement was reached in those interviews regarding claim amendments that would place the claims in condition for allowance. In those interviews, it was agreed that the amendments discussed would clearly render the primary reference, U.S. Patent 6,523,064 to Akatsu et al. (hereafter "Akatsu"), as non-analogous art. Applicants amended the claims as agreed to in the interviews. However, Akatsu has again been asserted against the claims. Applicant again asserts, for at least the reasons set forth below, that claims 1-43 are patentable over the art of record because, at a minimum, Akatsu is non-analogous art to the subject matter of claims 1-43. In the event the claims are not allowed, Applicant respectfully requests that, at a minimum, the finality of the April 17, 2007 Office Action be withdrawn in order to provide Applicant with the opportunity to fully address the rejections on the merits in view of the fact that an agreement was reached regarding Akatsu and Applicant amended the claims in accordance with that agreement.

Claim Rejections – 35 U.S.C. § 103

In the Office Action, claims 1-44 were rejected under 35 USC § 103(a) as being unpatentable over Akatsu in view of U.S. Patent 7,039,872 to Raheman and Japanese Patent Abstract JP 07073181A to Sadamatsu. This rejection is respectfully traversed.

Claim 1 recites:

> An apparatus for producing a perceptible representation of program data windows, comprising:
>
> an arbiter adapted to:
>
> (a) select a program to be a dominant program from among a plurality of programs seeking a master persistence attribute to display a program data window according to a predetermined priority hierarchy, and
>
> (b) assign the master persistence attribute to the selected program,
>
> wherein the program data window of the selected program is displayed concurrently with program data windows of other programs of the plurality of programs while not being obscured by the program data windows of the other programs and while overlapping at least one program data window of the other programs.

Claim 1 is directed to an apparatus for producing a perceptible representation (e.g., displaying) program data windows, such as various programs running on a computing system running a windowed operating system. The apparatus of claim 1 includes an arbiter that is adapted to select a program to be a dominant program according to a predetermined priority hierarchy and assign a master persistence attribute to the selected program. The apparatus of claim 1 displays the program data window of the selected program concurrently with program data windows of other programs. In the apparatus of claim 1, the program data window for the selected program is not obscured by the other program data windows and overlaps at least one program data window of the other programs.

An example embodiment of such an apparatus is described in the Summary of the present application on page 3, line 23 through page 4, line 26, which recites:

> One inventive apparatus produces a perceptible representation of data, and includes an arbiter that selects a dominant program from among multiple programs seeking a master persistence attribute to display program data according

> to a predetermined priority technique, and assigns the master persistence attribute to the dominant program. In addition, the arbiter can be coupled with an access control table which contains indicia representative of the predetermined priority scheme. Such indicia can include process ID (PID), window ID (WID), priority, revoked and repudiated credentials, authentication token or key, master persistence attribute authorization, descriptive text, program status, system status, an accessible display region, and an excluded display region. The arbiter can be configured with the predetermined priority scheme with a configuration application program, coupled with the access control table. An I/O manager can be used to manage display between the program and the display, and can communicate the data through an intervening graphics device driver. Moreover, the graphics device driver can be coupled with a graphics display buffer. The arbiter can include a rules engine, a state machine, and a content-addressable memory that provides the predetermined priority scheme for determining dominant program priority. The apparatus also can be configured to include a gatekeeper which determines selected ones of programs to be granted access to the arbiter to receive the master persistence attribute according to a predetermined access scheme. The gatekeeper can be coupled with a configuration table, which stores an indicia representative of the predetermined access scheme. These indicia can include a process ID (PID), window ID (WID), priority, revoked and repudiated credentials, authentication token or key, master persistence attribute authorization, descriptive text, program status, system status, an accessible display region, and an excluded display region. The apparatus also may be configured to employ a gatekeeper alone, in which case the gatekeeper will determine the priority of programs seeking an attribute and grant the attribute accordingly.

From the language of the claim in view of the foregoing description, and the description as a whole, claim 1 is directed to producing perceptible representations of program data windows for programs being executed on computing systems running windowed operating systems.

In contrast, Akatsu is directed to a network gateway device that is used to select between multiple sources on a network, such as home entertainment network. Such a gateway 504 is illustrated in FIG. 5 of Akatsu as being implemented in a home entertainment and home office system. The gateway 504 is used to select between various media feeds for display on a television monitor 508. The media feeds in FIG. 5 of Akatsu include a satellite 582 via a satellite receive 540, a broadcast tower 586 via an antenna 544, as well as feeds from local land lines 592, such as coaxial cable via a cable receiver 556, among other land line sources.

Applicant respectfully submits that the subject matter of Akatsu is not analogous to the subject matter of claim 1. One of skill in the art, at the time the invention was made, would not refer to IEEE gateway devices for selection between media feeds to implement an apparatus for

displaying program data windows, as recited in claim 1. Therefore, on at least this basis, the rejection of claim 1 is improper.

Furthermore, merely for the sake of argument, even if one of skill in the art, at the time the invention was made, were to consult Akatsu in view of Raheman and Sadamatsu, there is no likelihood of success to produce the apparatus of claim 1. For purposes of this response, it is assumed, though not conceded, that the Examiner's remarks with respect to Raheman and Sadamatsu are correct.

The gateway device of Akatsu is implemented using an IEEE 1394 bus interface. *Column 1, line 58 through column 6, line 29.* As set forth in Akatsu, the physical layer 412 provides a arbitration service that ***ensures that only one node at a time is sending data***. *Column 6, lines 8-10.* The Office Action states that this arbitration service constitutes the arbiter of claim 1. Applicant respectfully disagrees with this assertion.

As discussed above, the gateway device 504 of Akatsu is used to select between media streams or source nodes. The arbitration service of the gateway 504 is used to select a single media source from a plurality of media sources. The arbitration service ***ensures that only one node at a time is sending data***. Accordingly, the gateway device 504 of Akatsu makes sure that only one device at a time is allowed to display data on the television 508. Therefore, content from a selected device (i.e., the satellite 582) is not displayed concurrently with content from other devices (i.e., the broadcast tower 586). Accordingly, Akatsu directly teaches away from concurrently displaying a program data window for a selected program with program data windows of other programs.

While Raheman and Sadamatsu may disclose displaying program data windows concurrently and the use of a predetermined hierarchy, the subject matter of those applications is technically incompatible with Akatsu because Akatsu does not relate at all to the display of program data windows and discloses a gateway that is used to select between a plurality of media streams for singular display.

Based on the foregoing, claim 1 is not obvious over Akatsu in view of Raheman and Sadamatsu. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Without addressing the merits of the Examiner's statements regarding claims 2-9, which are not conceded, Applicant notes that claims 2-9 depend ultimately from claim 1 and include all

of its limitations and the limitations of any intervening claims, while adding further limitations. Thus, the arguments made above regarding claim 1 apply equally to claims 2-9 and are herein incorporated. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 2-9.

Independent claims 10, 20, 31, 37, 38, 41 and 42 include similar limitations to the limitations of claim 1 discussed above. Therefore, claims 10, 20, 31, 37, 38, 41 and 42 are not obvious over Akatsu in view of Raheman and Sadamatsu for at least the same or similar reasons as discussed above with respect to claim 1. Furthermore, claims 11-19 depend ultimately from claim 22; claims 21-30 depend ultimately from claim 20; claims 32-36 depend ultimately from claim 31; claims 39 and 40 depend ultimately from claim 38 and claim 43 depends from claim 42. Accordingly, claims 11-19, 21-30, 32-36, 39, 40 and 43 are also not obvious over Akatsu in view of Raheman and Sadamatsu by virtue of claim dependency Applicant respectfully requests that the rejections be withdrawn.

Applicant canceled claim 44 in Applicant's previous response, mailed on October 16, 2006. Therefore, the rejection of claim 44 is moot and should be withdrawn.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and requests notification to that. The Examiner is invited to telephone Applicant's attorney (360-930-3533) to facilitate prosecution of this application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-3521.

Respectfully submitted,
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Date April 17, 2007 By: 
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